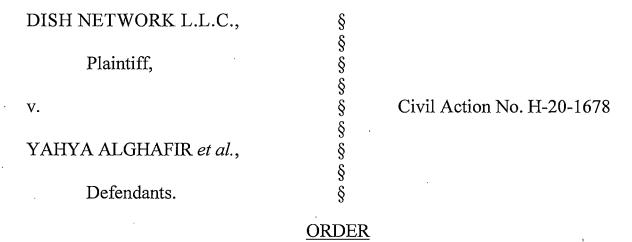
United States District Court Southern District of Texas

ENTERED

July 21, 2021
Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION



Pending before the Court is Plaintiff DISH Network L.L.C.'s Combined Motion for Entry of Default and Default Judgment Against Defendants (Document No. 31). On May 13, 2020, Plaintiff Dish Network L.L.C. ("Dish") commenced this suit. On June 10, 2020, Dish performed substituted service on Defendant Yahya Alghafir and Defendant Texas Communication & Technology Co., Ltd. On October 21, 2020, Dish performed alternative service as to Defendant Shenzhen Jiemao Technology Co., Ltd. ("Jiemao") and Defendant Shenzhen Street Cat Technology Co., Ltd.² Jiemao timely responded to the complaint by moving to dismiss and timely

¹ See Return of Service of Summons as to Yahya Alghafir, Document No. 9; Return of Service of Summons as to Texas Communications & Technology Co., Ltd., Document No. 10.

² See Return of Service of Summons as to Shenzhen Jiemao Technology Co. Ltd. and Shenzhen Street Cat Technology Co., Ltd., Document No. 21.

objected to the motion for entry of default.³ To date, Jiemao is the only Defendant to respond to this suit. "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Here, Jiemao has repeatedly sought to defend itself. The Court thus finds the motion for entry of default should be denied as to Jiemao and denied without prejudice as to the other Defendants.⁴ Accordingly, the Court hereby

ORDERS that Plaintiff DISH Network L.L.C.'s Combined Motion for Entry of Default and Default Judgment Against Defendants (Document No. 31) is **DENIED** as to Shenzhen Jiemao Technology Co., Ltd. The Court further

ORDERS that Plaintiff DISH Network L.L.C.'s Combined Motion for Entry of Default and Default Judgment Against Defendants (Document No. 31) is

³ See Defendant Shenzhen Jiemao Technology Co., Ltd.'s Motion to Dismiss with Prejudice, Document No. 22; Defendant Shenzhen Jiemao Technology Co., Ltd.'s Opposition to Plaintiff Dish Network L.L.C.'s Combined Motion for Entry of Default and Default Judgment Against Defendants and a Motion to Dismiss the Case due to the Expiration of the Statute of Limitations, Document No. 35. On May 25, 2021, the Court denied the first motion to dismiss. Order, Document No. 29.

⁴ The Court notes the relief sought by Dish in their motion for entry of default and default judgment is a finding of joint and several liability as to all Defendants for any statutory damages awarded. The entry of default judgment against one, but not all, Defendants is inappropriate when joint and several liability is at issue. See Underwriters at Lloyds, Syndicate 4242 v. Turtle Creek P'ship, Ltd., Civil Action No. 4:08-cv-3044, 2010 WL 5583118, at *2–*3 (S.D. Tex. Feb. 26, 2010) (Ellison, J.); see also 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2690 (4th ed. 2021).

DENIED WITHOUT PREJUDICE as to Yahya Alghafir, Texas Communication & Technology LLC, and Shenzhen Street Cat Technology Co., Ltd.

SIGNED at Houston, Texas, on this **21** day of July, 2021.

DAVID HITTNER
United States District Judge